STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES

IN THE MATTER OF:

[redacted]

Reg. No.: 15-010398
Issue No.: 4009
Case No.: [redacted]
Hearing Date: August 4, 2015
County: Saginaw

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 42 CFR 431.200 to 431.250; and 45 CFR 205.10. After due notice, a telephone hearing was held on August 4, 2015, from Lansing, Michigan. Claimant personally appeared and testified. Participants on behalf of the Department of Health and Human Services (Department) included Hearing Facilitator [redacted].

ISSUE

Whether the Department properly determined that Claimant was not disabled for purposes of the State Disability Assistance (SDA) benefit program?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On December 2, 2014, Claimant filed an application for SDA benefits alleging disability.

2. On May 13, 2015, the Medical Review Team (MRT) denied Claimant's application for SDA.

3. On May 14, 2015, the Department sent Claimant notice that her application for SDA had been denied.

4. On May 22, 2015, Claimant filed a request for a hearing to contest the department's negative action.

5. Claimant was scheduled for a Social Security disability benefits hearing on August 14, 2015, at the time of the hearing.

6. Claimant is a 46 year old woman whose birthday is [redacted]. Claimant is 5'8" tall and weighs 170 lbs.

7. Claimant has a driver's license and is unable to drive because she has been in the hospital the past 46 days, and will eventually be transferred to a rehabilitation facility for an unknown length of time.

8. Claimant has a high school education.

9. Claimant is not currently working. Claimant last worked in September, 2013.

10. Claimant alleges disability on the basis of breast cancer, chronic obstructive pulmonary disease, trigeminal neuralgia, anemia, chronic pneumonia, bleeding ulcers, 7 blood transfusions and depression.

11. Claimant's impairments have lasted, or are expected to last, continuously for a period of twelve months or longer.

12. Claimant's complaints and allegations concerning her impairments and limitations, when considered in light of all objective medical evidence, as well as the record as a whole, reflect an individual who is so impaired as to be incapable of engaging in any substantial gainful activity on a regular and continuing basis.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, was established by 2004 PA 344. The Department administers the SDA program pursuant to 42 CFR 435, MCL 400.10 *et seq.* and Mich Admin Code, Rules 400.3151 – 400.3180. A person is considered disabled for SDA purposes if the person has a physical or mental impariment which meets federal Supplemental Security Income (SSI) disability standards for at least ninety days. Receipt of SSI benefits based on disability or blindness, or the receipt of MA benefits based on disability or blindness, automatically qualifies an individual as disabled for purposes of the SDA program.

Current legislative amendments to the Act delineate eligibility criteria as implemented by department policy set forth in program manuals. 2004 PA 344, Sec. 604, establishes the State Disability Assistance program. It reads in part:

> Sec. 604 (1) The department shall operate a state disability assistance program. Except as provided in subsection (3), persons eligible for this program shall include needy citizens of the United States or aliens exempt from the Supplemental Security Income citizenship requirement who are at least 18 years of age or emancipated minors meeting one or more of the following requirements:
>
> (b) A person with a physical or mental impairment which meets federal SSI disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

Specifically, this Act provides minimal cash assistance to individuals with some type of severe, temporary disability which prevents him or her from engaging in substantial gainful work activity for at least ninety (90) days.

> "Disability" is:
>
> . . . the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 20 CFR 416.905. [SDA = 90 day duration].
>
> [As Judge] We are responsible for making the determination or decision about whether you meet the statutory definition of disability. In so doing, we review all of the medical findings and other evidence that support a medical source's statement that you are disabled. 20 CFR 416.927(e).

On [redacted], Claimant had a psychological evaluation on behalf of the Department. The psychologist noted Claimant's clothing was dirty, her hygiene was poor, her mood was depressed and her mannerisms were cooperative. The psychologist opined Claimant seemed depressed throughout the session. She did not appear to have a tendency to minimize or exaggerate symptomology. Results of the mental status examination revealed slight abnormalities in concentration, general knowledge, memory, judgment, abstract reasoning and calculation tasks. The psychologist diagnosed Claimant with bipolar disorder and opined that her ability to relate and interact with others, including coworkers and supervisors is moderately impaired especially during flare-ups. Her mood swings could affect her interpersonal relationships in the workplace. Her ability to understand, recall and complete tasks and expectations appear to be slightly impaired. She is able to perform simple tasks with no major limitations. She struggles with tasks that have multiple steps and increased

complexity. Her ability to maintain concentration does seem somewhat impaired especially during flare-ups. As a result of her emotional state, she may often be distracted and her effectiveness and performance will likely be limited and slowed. Her ability to withstand the normal stressors associated with a workplace setting is somewhat impaired. Diagnosis: Axis I: Bipolar disorder; Axis II: None; Axis III: Anemia, COPD trigeminal neuroglia, cancer, fatigue, chronic pneumonia; Axis IV: Education problems, occupational problems, housing problems, economic problems, occupational problems, problems with access to health care services, problems related to interactions with the legal system/crime and other psychosocial and environmental problems. Prognosis is poor.

Claimant credibly testified that she has been in the hospital for 46 days. She explained that her cancer treatment of radiation and tamoxifen hardened her lungs, causing them to collapse. She did not have a release date and was not mobile. She was on oxygen. She stated she had been told that when she was released from the hospital she would be transferred to a rehabilitation facility and would continue to require oxygen. She testified that both hospitals had told her that it could take a year to two years to recover.

The credible testimony and medical records submitted at hearing verify Claimant was legally disabled for ninety (90) days. As such, the Department's denial of SDA pursuant to Claimant's December 2, 2014, SDA application cannot be upheld.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds Claimant disabled for purposes of the SDA benefit program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department erred in determining Claimant is not currently disabled for SDA eligibility purposes.

Accordingly, the Department's decision is **REVERSED**, and it is ORDERED that:

1. The Department shall process Claimant's December 2, 2014, SDA application, and shall award her all the benefits she may be entitled to receive, as long as she meets the remaining financial and non-financial eligibility factors.

2. The Department shall review Claimant's medical condition for improvement in August, 2016, unless her Social Security Administration disability status is approved by that time.

3. The Department shall obtain updated medical evidence from Claimant's treating physicians, physical therapists, pain clinic notes, etc. regarding her continued treatment, progress and prognosis at review.

It is SO ORDERED.

Vicki Armstrong
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/5/2015**

Date Mailed: **8/5/2015**

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NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

cc: [redacted]